

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

WILLIE E. HARDEMAN, #1320441,

Plaintiff,

v.

DAVID McCOMIS, et al.,

Defendants.

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3:08-CV-0867-P

**FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to the provisions of 28 U.S.C. § 636(b), and an order of the District Court in implementation thereof, this case has been referred to the United States Magistrate Judge. The findings, conclusions and recommendation of the Magistrate Judge are as follows:

FINDINGS AND CONCLUSIONS:

On May 27, 2008, the District Court denied Plaintiff's motion for a temporary restraining order, and directed Plaintiff to submit the filing fee or a motion to proceed *in forma pauperis*. On June 19, 2008, the magistrate judge filed a deficiency order requesting the fee or a motion for leave to proceed *in forma pauperis*, and a complaint on the appropriate form. While Plaintiff submitted a motion to proceed *in forma pauperis* on June 30, 2008, he failed to submit a complaint on the court approved form. As a result, on July 21, 2008, the magistrate judge issued a second deficiency order, directing Plaintiff to submit a complaint on the court approved form. In his response filed on July 29, 2008, Hardeman advised that he was not seeking to bring a civil rights action, but was only seeking the entry of a temporary restraining order against the warden and employees at the Sander Estes Unit. In light of the fact that the District Court ruled on his

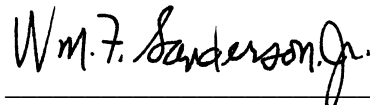
request and denied the same, Hardeman states there is nothing remaining to be resolved or addressed.

RECOMMENDATION:

For the foregoing reasons, it is recommended that the court enter its order dismissing this action pursuant to Rule 41(a)(2).

A copy of this recommendation will be mailed to Plaintiff.

Signed this 31st day of July, 2008.

A handwritten signature in black ink, reading "Wm. F. Sanderson, Jr.", is positioned above a horizontal line.

WM. F. SANDERSON, JR.
UNITED STATES MAGISTRATE JUDGE

NOTICE

In the event that you wish to object to this recommendation, you are hereby notified that you must file your written objections within ten days after being served with a copy of this recommendation. Pursuant to *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en banc*), a party's failure to file written objections to these proposed findings of fact and conclusions of law within such ten-day period may bar a *de novo* determination by the district judge of any finding of fact or conclusion of law and shall bar such party, except upon grounds of plain error, from attacking on appeal the unobjected to proposed findings of fact and conclusions of law accepted by the district court.